

**August 24, 2015
Springfield, Missouri**

The City Council met in regular session August 24, 2015 in the Council Chambers at Historic City Hall. The meeting was called to order by Mayor Bob Stephens. A moment of silence was observed.

Roll Call

Present: Kristi Fulnecky, Phyllis Ferguson, Mike Schilling, Justin Burnett, Craig Fishel, Ken McClure, Jan Fisk, Craig Hosmer, and Bob Stephens. Absent: None.

Minutes

The minutes of August 10, 2015 and August 18, 2015 were approved as presented.

Consent Agenda

The Consent Agenda was finalized and approved as amended.

Anita Cotter, City Clerk, informed Council she had received a request to remove Council Bill 2015-234 from Consent Agenda One Reading Bills. She noted this item would be moved to Resolutions.

The following appeared on the agenda under Ceremonial Matters:

**Officer Pearson
Retirement**

Sponsor: Burnett. Council Bill 2015-216. A resolution acknowledging the retirement of Officer Aaron Pearson from the Springfield Police Department.

Councilman Burnett read the resolution in its entirety. He expressed his appreciation to Officer Pearson for his dedicated service to the City of Springfield.

Councilwoman Fulnecky expressed her appreciation to Officer Pearson for his service to the community.

Council Bill 2015-216. Resolution 10231 was approved by the following vote: Ayes: Fulnecky, Ferguson, Schilling, Burnett, Fishel, McClure, Fisk, Hosmer, and Stephens. Nays: None. Absent: None. Abstain: None.

City Managers report and responses to questions raised at the previous City Council meeting:

Greg Burris, City Manager, responded all questions had been answered. Mr. Burris noted approximately 23,000 people celebrated at the 5th annual Birthplace of Route 66 Festival downtown August 14th through 16th. He added the City added several events this year and partnered with Ky3, KSPR, and the CW, who recruited title sponsor Aaron Sachs. Cora Scott, Director of Public Information and Civic Engagement, gave a recap of the three day festival and played a short video. She introduced Brian McDonough and thanked him for all of his work to make the aforementioned festival a success.

Mr. Burris noted progress is being made on the Community Listen Zone Projects as the Zone Blitz planning phase begins. He added 134 individuals, representing more than 55 partner organizations have agreed to join 11 topic teams to address a wide variety of issues, including housing, jobs, economic development, infrastructure issues, and public safety. Mr. Burris noted teams continue to meet

to develop action plans to bring back to the full partner group for a breakfast meeting at 7:30 a.m. on September 23rd. He added the goal is to provide a report to the public at the October 8th Community Summit. Mr. Burris noted on October 8th the Impacting Poverty Commission will release its report and the Community Foundation of the Ozarks and Junior League will issue the annual Community Focus Report.

Mr. Burris noted the survey of the proposed new roadway construction projects to be included on the April 2016 ballot asking to renew the 1/8 cent Transportation and 1/4 cent Capital Improvement sales tax programs will be open through August 31st. He added the survey can be found online at www.springfieldmo.gov/election.

Mr. Burris noted Paul Williams, Chief of Police, provided the August Strength Report and the July Crime Statistics Report for Council this evening.

Mr. Burris noted Nick Nelson, Director of the Springfield Art Museum, provided Council with an update on the state of the Art Museum. He added highlights of the update include significant expansion to citizens' ability to access art and an increase in the number of collaborative projects in the community.

The following bills appeared on the agenda under Second Reading Bills:

Annexing: Southwood Avenue

Sponsor: Fishel. Council Bill 2015-197. A general ordinance amending Springfield City Code, Chapter 1, Section 1-9, City limits, by annexing approximately 16.33 acres of private property and 6.11 acres of public right-of-way into the City of Springfield generally located at 5904 South Southwood Avenue, the east side of the 6000-6100 blocks of South Southwood Avenue, and the 2000 block of East Evans Road, generally referenced as Annexation A-3-15; and amending Springfield City Code, Chapter 46, Section 46-1, Boundaries of wards, precincts and council zones, by adding this property to the ward and precinct assigned by the County Clerk.

Council Bill 2015-197. General Ordinance 6215 was approved by the following vote: Ayes: Fulnecky, Ferguson, Schilling, Burnett, Fishel, McClure, Fisk, Hosmer, and Stephens. Nays: None. Absent: None. Abstain: None.

Annexing: South Waco Avenue

Sponsor: Ferguson. Council Bill 2015-198. A general ordinance amending Springfield City Code, Chapter 1, Section 1-9, City limits, by annexing approximately 0.84 acres of private property into the City of Springfield generally located on the east side of the 800 block of South Waco Avenue, generally referenced as Annexation A-4-15; and amending Springfield City Code, Chapter 46, Section 46-1, Boundaries of wards, precincts and council zones, by adding this property to the ward and precinct assigned by the County Clerk.

Council Bill 2015-198. General Ordinance 6216 was approved by the following vote: Ayes: Fulnecky, Ferguson, Schilling, Burnett, Fishel, McClure, Fisk, Hosmer, and Stephens. Nays: None. Absent: None. Abstain: None.

Annexing: East Kearney Street/State Highway OO

Sponsor: Burnett. Council Bill 2015-199. A general ordinance amending Springfield City Code, Chapter 1, Section 1-9, City limits, by annexing approximately 5.77 acres of MoDOT and BNSF railroad right-of-way into the

City of Springfield generally located in the 5200-5300 blocks of East Kearney Street/State Highway OO, generally referenced as Annexation A-5-15; and amending Springfield City Code, Chapter 46, Section 46-1, Boundaries of wards, precincts and council zones, by adding this property to the ward and precinct assigned by the County Clerk.

Council Bill 2015-199. General Ordinance 6217 was approved by the following vote: Ayes: Fulnecky, Ferguson, Schilling, Burnett, Fishel, McClure, Fisk, Hosmer, and Stephens. Nays: None. Absent: None. Abstain: None.

West Wye Connector Project

Sponsor: McClure. Council Bill 2015-200. A special ordinance authorizing the City Manager, or his designee, to enter into a Construction and Maintenance Agreement with BNSF Railway Company (BNSF) for the purpose of improving safety, efficiency, and promoting economic development in central Springfield by constructing the West Wye Connector project which will relocate a BNSF railroad line connecting the Ft. Scott and Cherokee Subdivisions.

Councilman Schilling expressed his opposition of the proposed. He expressed concern that Burlington Northern Santa Fe Railroad (BNSF) would not be contributing any funds to the proposed project.

Councilman Hosmer expressed his opposition of the proposed. He also expressed concern that BNSF would not be contributing any funds to the proposed project.

Councilwoman Ferguson noted she has reviewed the proposed and expressed her belief that it would be beneficial to Zone 1; therefore, she would be voting in support of the proposed.

Councilman Burnett expressed his support of the proposed. He expressed his belief that the proposed would make the railway more efficient and help with future development plans.

Mayor Pro Tem McClure noted he has researched the proposed and believes the City would benefit from the project.

Mayor Stephens expressed his belief that the proposed would assist with public safety by limiting trips through the City.

Council Bill 2015-200. Special Ordinance 26611 was approved by the following vote: Ayes: Fulnecky, Ferguson, Burnett, Fishel, McClure, Fisk, and Stephens. Nays: Hosmer and Schilling. Absent: None. Abstain: None.

Contract for Sale of Real Estate: 15.36 Acres West of Mulroy Road

Sponsor: Burnett. Council Bill 2015-201. A special ordinance authorizing the City Manager, or his designee, to enter into a contract for sale of real estate to sell a tract of approximately 15.36 acres west of Mulroy Road (Farm Road 199), following public auction of the real estate, or sale as otherwise authorized by the City Purchasing Manual, providing certain reserve limits are met; and authorizing the Mayor to execute necessary documents to convey title to the real estate. (The Board of Public Utilities, Planning and Zoning Commission and staff recommend approval.)

Council Bill 2015-201. Special Ordinance 26612 was approved by the following

vote: Ayes: Fulnecky, Ferguson, Schilling, Burnett, Fishel, McClure, Fisk, Hosmer, and Stephens. Nays: None. Absent: None. Abstain: None.

ABC Parking Agreement

Sponsor: Schilling. Council Bill 2015-215. A special ordinance authorizing the City Manager, or his designee, to enter into a Parking Deck Availability Agreement with AmerisourceBergen Corporation (ABC) for the purpose of ensuring that ABC's employees have access to free, open parking spaces in a convenient location to ABC's offices, which are to be located in the Heer's Building.

Mayor Stephens noted the public hearing for the proposed was held over from the August 18th Special Council meeting.

An opportunity was given for citizens to express their views.

Tom Rankin spoke in support of the proposed. He expressed his belief that the proposed would bring a significant number of jobs from other cities. He also expressed his belief that the proposed would be beneficial to economic development in the downtown area.

Councilwoman Fulnecky welcomed IntrinsicQ to the community. She expressed her belief that economic development is "booming" in Springfield.

With no further appearances, the discussion was closed.

Council Bill 2015-215. Special Ordinance 26613 was approved by the following vote: Ayes: Fulnecky, Ferguson, Schilling, Burnett, Fishel, McClure, Fisk, Hosmer, and Stephens. Nays: None. Absent: None. Abstain: None.

The following items appeared on the agenda under Resolutions:

Group 3 Sewer Rehabilitation Project

Sponsor: Ferguson. Council Bill 2015-234. A resolution approving the plans, specifications, and bid of Rosetta Construction, LLC, in the total amount of \$10,238,944.40, for the Group 3 Sewer Rehabilitation project as required by the Early Action Program pursuant to the City's Amended Consent Judgment.

Dan Wichmer, City Attorney, gave a brief overview of the proposed. He noted Rosetta Construction was the third low bidder. He added the other two low bidder's were considered "non-responsive to the bid" by not attending a mandatory meeting.

Mayor Pro Tem McClure expressed concern about the difference between the bid in the proposed and the engineers estimate. Mr. Wichmer responded the bid is within 6% of the estimate and meets the criteria that Public Works established.

An opportunity was given for citizens to express their views.

Neal Bough spoke in opposition of the proposed. He expressed concern about the bid process. He noted he submitted bids as a subcontractor for 2 contractors that submitted bids. He noted both contractors bids for the proposed were lower than the bid that was accepted. He added that since he did not attend the pre-bid conference his bids were considered "non-responsive". Mr. Bough expressed his belief that he did not have to attend the pre-bid conference, as interpreted in

Article 5.

Mayor Stephens asked who conducts the bid process. Mr. Burris responded the bid process is conducted by the City in conjunction with consultants from Black and Veatch.

Councilwoman Fulnecky expressed her belief that government contracting can be a frustrating process, but all instructions must be followed.

Mayor Stephens asked that the process be reviewed for any discrepancies.

With no further appearances, the discussion was closed.

Council Bill 2015-234. Resolution 10232 was approved by the following vote:
Ayes: Fulnecky, Ferguson, Schilling, Burnett, Fishel, McClure, Fisk, Hosmer, and Stephens. Nays: None. Absent: None. Abstain: None.

EMERGENCY BILLS

PUBLIC IMPROVEMENTS

GRANTS

AMENDED BILLS

The following bills appeared on the agenda under Public Hearing Bills:

Rezoning: North Mulroy Road

Sponsor: Fisk. Council Bill 2015-217. A general ordinance amending the Springfield Land Development Code, Section 1-1600, Zoning Maps, by rezoning approximately 59 acres of property, generally located on the west side of the 2700-2800 blocks of North Mulroy Road (Farm Road 199), from Planned Development District No. 225, to HM, Heavy Manufacturing District; establishing Conditional Overlay District No. 94; and adopting an updated Official Zoning Map. (Staff and Planning and Zoning Commission recommend approval.) (By: SRC Holdings Corporation; Westside of the 2700-2800 blocks of North Mulroy Road (Farm Road 199); Z-23-2015 & Conditional Overlay District No. 94.)

Mary Lilly Smith, Director of Planning and Development, gave a brief overview of the proposed. She noted in July the applicant requested the proposed be remanded back to the Planning and Zoning Commission for review. She added the area is currently zoned for industrial, warehouse, and distribution uses. Ms. Smith noted the Comprehensive Plan identifies the area as appropriate for light industry, office, or office/warehouse. She added the proposed is located in the I-44 and Mulroy Road activity center. Ms. Smith noted the proposed includes a conditional overlay. She added the applicant submitted a revised traffic study and it has been approved by the Public Works department. Ms. Smith noted no public access to Mulroy Road would be permitted from Station Point 107.50 south, but secured Fire Department access may be provided in limited access sections of Mulroy Road. She added the developer would either have to build sidewalks or pay a fee in lieu of sidewalks. Ms. Smith noted the developer also would have to grade for future sidewalk construction if they decide to pay a fee in

lieu of taxes. She added the acknowledgement of a sinkhole on Mulroy Road is the reason for the proposed changes. Ms. Smith noted the future plan calls for Mulroy Road to be reconfigured. She added the Planning and Zoning Commission and staff recommend approval.

Councilman Fishel asked if the fee in lieu of sidewalks would cost more than sidewalk construction. Ms. Smith responded she was not sure what the actual cost to build the sidewalk would be, but the fee in lieu of sidewalks would be \$15 per linear foot.

An opportunity was given for citizens to express their views.

Geoff Butler, representative for the applicant, spoke in support of the proposed. He noted the proposed development has issues with sinkholes and the development has been planned to use the parts of the property that are suitable for development. He added this issue is why the proposed was taken back to the Planning and Zoning Commission for review.

With no further appearances, the public hearing was closed.

Rezoning: West Tampa Street

Sponsor: Fisk. Council Bill 2015-218. A general ordinance amending the Springfield Land Development Code, Section 1-1600, Zoning Maps, by rezoning approximately 1.68 acres of property, generally located at 300 West Tampa Street, from GM, General Manufacturing District, to CC, Center City District; establishing Conditional Overlay District No. 96; and adopting an updated Official Zoning Map. (Staff and Planning and Zoning Commission recommend approval.) (By: Positronic Industries, Inc.; 300 West Tampa Street; Z-26-2015 & Conditional Overlay District No. 96.)

Mary Lilly Smith, Director of Planning and Development, gave a brief overview of the proposed. She noted the Comprehensive Plan recommends increased density and intensity in the greater downtown area. She added the proposed Center City zoning is consistent with adjacent zoning. Ms. Smith noted the proposed Conditional Overlay District would include one access each on Campbell and Tampa, 150-feet from the intersection. She added street improvements may also be required if estimated trip generation from the new development results in an increase of over 100 trip ends per peak hour or 1,000 trip ends per day. Ms. Smith noted the current plan is for Jordan Valley Health Center to use the proposed property for parking and they do not anticipate developing the property with a structure at this time. She added the Planning and Zoning Commission and staff recommend approval.

Councilman Hosmer asked if the applicant could use the property as a parking lot under General Manufacturing zoning. Ms. Smith responded she believes there would be additional restrictions for parking under the current zoning.

An opportunity was given for citizens to express their views. With no appearances, the public hearing was closed.

The applicant requested Council Bill 2015-219 be removed from this agenda.

Rezoning: South Waco

Sponsor: Burnett. Council Bill 2015-220. A general ordinance amending the

Avenue

Springfield Land Development Code, Section 1-1600, Zoning Maps, by rezoning approximately 0.84 acres of property, generally located on the east side of the 800 block of South Waco Avenue from Greene County R-1, Suburban Residence District, to R-SF, Single Family Residential District; and adopting an updated Official Zoning Map. (Planning and Zoning Commission and staff recommend approval.) (By: City of Springfield; East side 800 block South Waco Avenue; Z-28-2015.)

Mary Lilly Smith, Director of Planning and Development, gave a brief overview of the proposed. She pointed out the property on the overhead map. She noted the Comprehensive Plan identifies this area as appropriate for low-density housing. She added the Planning and Zoning Commission and staff recommend approval.

An opportunity was given for citizens to express their views. With no appearances, the public hearing was closed.

Use Permit 416

Sponsor: Schilling. Council Bill 2015-221. A special ordinance authorizing the issuance of "Use Permit 416" to permit a truck stop use at 4901 and 4939 West Chestnut Expressway within the HC, Highway Commercial District, on certain conditions. (Planning and Zoning Commission and staff recommend approval.)

Mary Lilly Smith, Director of Planning and Development, gave a brief overview of the proposed. She noted the Comprehensive Plan identifies this area as an Activity Center. She added the proposed property is located at I-44 and Chestnut Expressway and is an appropriate location for a truck stop. Ms. Smith noted the existing Broadview Place driveway would be closed and new driveways would be relocated on Broadview Place. She added the development has to conform to the site plan. Ms. Smith noted the proposed must conform to subdivision regulations and meet all Highway Commercial zoning requirements. She added the Planning and Zoning Commission and staff recommend approval.

An opportunity was given for citizens to express their views.

Mike Hamil, representative for the developer, spoke in support of the proposed. He noted he was available to answer questions.

Councilman Schilling asked what type of truck stop the proposed would be. Mr. Hamil responded the proposed would be a Flying J Truck Stop.

With no further questions or appearances, the public hearing was closed.

**Madison and
Kimbrough
Redevelopment Plan**

Sponsor: McClure. Council Bill 2015-222. A special ordinance amending the Madison and Kimbrough Redevelopment Plan; and authorizing certain tax abatement within the plan area. (The Land Clearance for Redevelopment Authority, Planning and Zoning Commission and City Staff recommend approval.)

Mary Lilly Smith, Director of Planning and Development, gave a brief overview of the proposed. She noted the original redevelopment plan was approved in 2011. She added the proposed is generally located at the northwest and southwest corners of the intersection of East Madison Street and South

Kimbrough Avenue. Ms. Smith noted the original redevelopment proposal cured the blight by demolishing structures and clearing the area for residential development. She added some development occurred, including Beacon Commons and three phases of Bear Village Apartments. Ms. Smith gave a brief overview of the Land Clearance for Redevelopment Authority law. She noted the proposed would expand the area by approximately two acres to accommodate additional phases of the Bear Village Apartments. She added immediate plans include the development of a four-story, 24-unit apartment building at the northeast corner of Roanoke Avenue and Grand Street. Ms. Smith noted future plans include three additional four-story apartment buildings, which may accommodate up to 330 additional residents and commercial uses such as: restaurants, a grocery store, or other retail. She added the proposed redevelopment plan conforms with the Comprehensive Plan. Ms. Smith noted the Planning and Zoning Commission and staff recommend approval.

An opportunity was given for citizens to express their views.

Shawn Whitney, representative for the developer, spoke in support of the proposed. He noted he was available to answer questions. With no questions for the speaker and no further appearances, the public hearing was closed.

**Developer/
Neighborhood Meeting
Policy**

Sponsor: Burnett. Council Bill 2015-223. A general ordinance amending the Springfield Land Development Code, Article I, Zoning Ordinance, to add a new Subsection 3-3809, Neighborhood Meetings, that will incorporate the Developer/Neighborhood Meeting Policy into the Zoning Ordinance. (Both Planning and Zoning Commission and staff recommend approval.)

Mary Lilly Smith, Director of Planning and Development, gave a brief overview of the proposed. She noted the purpose of the proposed is to take an existing ordinance and codify it into the zoning ordinance. She added this policy has been used for approximately eight years and has done a great job in facilitating conversations between neighborhoods. Ms. Smith noted staff has identified some changes that could be made to the policy to make it more helpful. She added one of those changes is the developer will provide comment cards in the letter they send residents or at the neighborhood meeting. Ms. Smith noted another change is that the meeting must be held on-site or in the immediate vicinity of the proposed project. She added the meetings would also have to be held from 4:00 to 6:30 p.m. Ms. Smith noted the Developer Input Issues Group, Downtown Springfield Association, Environmental Advisory Board, and all of the registered neighborhood organizations have been notified of the proposed changes and no negative feedback has been received. She added the Planning and Zoning Commission and staff recommend approval.

Councilwoman Ferguson expressed her appreciation to Ms. Smith for her work on the proposed. Councilwoman Ferguson asked how the “chain of custody” would work to ensure the comment cards are received by the City. Ms. Smith responded those cards would be postcards and could be mailed directly to the City.

Councilwoman Fulnecky asked if anything in the proposed would slow down the development process. Ms. Smith responded in the negative.

Mayor Stephens asked if most neighborhood meetings were “drop in” meetings. Ms. Smith responded in the affirmative, adding if the developer chose to do a presentation she would recommend they do it at approximately 5:00 p.m.

An opportunity was given for citizens to express their views.

Pete Radecki, Chair of the Neighborhood Advisory Council, spoke in support of the proposed. He expressed his appreciation to staff for their work with his group. Mr. Radecki expressed his belief that the proposed would benefit the community by helping residents articulate their concerns in regards to projects in their neighborhood. He noted he has spoken with several neighborhood association members and has received no negative feedback regarding the proposed.

Mayor Stephens asked if it was normal to have City staff attend neighborhood meetings. Ms. Smith responded typically City staff does not attend neighborhood meetings.

With no further appearances, the public hearing was closed.

Exterior Lighting Standards

Sponsor: Hosmer. Council Bill 2015-224. A general ordinance amending the Springfield Land Development Code, Article I, Zoning Ordinance, Subsection 6-1403, Exterior Lighting Standards, to allow lighting spillover at the interior lot lines of multiple lots that function as premises. (Both Planning and Zoning Commission and staff recommend approval.)

Mary Lilly Smith, Director of Planning and Development, gave a brief overview of the proposed. She noted the proposed addresses a concern regarding several projects that operate as a “premise”. She added a premise is defined as having shared parking, common management, common identification, common access, or shared circulation. Ms. Smith noted the proposed would allow lighting spillover at the interior lot lines of multiple lots that function as a premise. She added the Developer Input Issues Group, Downtown Springfield Association, Environmental Advisory Board, and all the registered neighborhood associations have been notified of the proposed change and no negative feedback has been received. Ms. Smith noted the Planning and Zoning Commission and staff recommend approval.

An opportunity was given for citizens to express their views. With no appearances, the public hearing was closed.

Sidewalk/Pedestrian Walkways

Sponsor: Fulnecky. Council Bill 2015-225. A general ordinance amending the Springfield Land Development Code, Article I, Zoning Ordinance, to add new Subsection 5-3103.B.7 for Sidewalk/Pedestrian Walkways along Commercial Development. (Planning and Zoning Commission recommends denial and staff recommends approval.)

Mary Lilly Smith, Director of Planning and Development, gave a brief overview of the proposed. She noted the proposed would address a problem found in the zoning ordinance. She added that prior to 2014 sidewalks were only required during the subdivision process or during a zoning case with a conditional overlay or planned development. Ms. Smith noted an amendment was approved in 2014

that would require sidewalks at the time of development for any commercial redevelopment. She added that an unintended consequence has been identified where extensive sidewalk construction is required for a very minimal redevelopment. Ms. Smith displayed an example of the unintended consequence at Loren Cook Company. She added for them to add 7,125 square feet they have to build over half a mile of sidewalks around the building. Ms. Smith noted staff is proposing a process to waive sidewalk construction under certain conditions. She added the process would be as follows:

- The applicant would submit a letter requesting a waiver to the Director of Public Works.
- The Director of Public Works would determine if unusual circumstances exist.
- If unusual circumstances are found, the request would be sent to the Administrative Review Committee for a waiver or reduction of sidewalk construction and/or fee in lieu of construction.
- If the Director of Public Works or the Administrative Review Committee denies the waiver, the applicant could appeal to the Planning and Zoning Commission.

Ms. Smith noted the Developer Input Issues Group, Downtown Springfield Association, and neighborhood associations reviewed the proposed and no negative feedback was received. She added the Planning and Zoning Commission recommended denial by a vote of 7-0. Ms. Smith noted staff spoke with the members and asked for feedback regarding the denial. She added a couple members philosophically disagreed with ever waiving a sidewalk fee. Ms. Smith noted others disagreed with being the appeal body in regards to the proposed. She added staff continues to recommend approval for the proposed.

Councilman Hosmer expressed his belief that the requirement for Loren Cook Company to build a sidewalk had been eliminated previously. Ms. Smith responded in the negative, adding there was no way to eliminate the requirement without the proposed change.

Councilman Hosmer noted during his time on Council he has not seen a request be voted against unanimously by the Planning and Zoning Commission. Ms. Smith responded it has happened in the past.

Councilman Hosmer asked if there were any other alternatives that the Planning and Zoning Commission would approve. Ms. Smith responded a fee in lieu of sidewalks is the alternative, but expressed her belief that option would be expensive for businesses.

Councilwoman Fulnecky asked how long the waiver process would take. Ms. Smith responded the Administrative Review Committee meets weekly, so the process should not take longer than 10 days. Councilwoman Fulnecky expressed her belief that the sidewalk requirement could add an unnecessary burden on businesses.

Councilwoman Ferguson asked for clarification regarding the waiver approval process. Ms. Smith responded the Director of Public Works would create the

criteria for approval and then review that criteria with the Administrative Review Committee. Councilwoman Ferguson expressed her belief that based on the fact that the Planning and Zoning Commission has several new members; they may feel more agreeable to the proposed if there was a set criteria in place.

Councilman Schilling asked if there would be a way to include something in the request that would only require sidewalk for the expansion and not the existing development. Ms. Smith responded that would also require an amendment to the zoning ordinance. She added the Administrative Review Committee could review that and require sidewalks be built only for the new construction. Ms. Smith noted this could result in sidewalks being built that do not connect to anything.

Mayor Pro Tem McClure asked why some members of the Planning and Zoning Commission felt that body should not hear the appeals. Ms. Smith responded that some members believed those appeals should go to the Board of Adjustment. She added several of the members are new and the two most senior members were absent the evening the vote was taken. Mayor Pro Tem McClure asked if the proposed would make the Planning and Zoning Commission the appeal body for the waiver process. Ms. Smith responded affirmatively, adding they are the current appeal body for sidewalks.

Councilman Fishel asked if the required sidewalks at Loren Cook Company would connect to existing sidewalks or terminate at their property. Ms. Smith responded the required sidewalks would only connect to the current sidewalk at the front door of the Loren Cook Company. She added there are no additional sidewalks near the Loren Cook Company to connect to.

An opportunity was given for citizens to express their views.

Loren Cook II, Loren Cook Company, spoke in support of the proposed. He noted his company has been located in Springfield for over 50 years and has worked to be an economic driver for the community. He added he is asking Council to remove the sidewalk requirement for his proposed addition. Mr. Cook noted he would have to add sidewalks around his entire company, even though the addition would only be approximately 7,100 square feet. He added his company currently employs approximately 600 people and has never had a lay-off. Mr. Cook noted all of his employees also receive free healthcare for themselves, their spouses, and their dependants.

Councilwoman Ferguson asked how many positions would be added with the aforementioned expansion. Mr. Cook responded approximately 19 positions.

Councilman Hosmer asked for clarification regarding the location of the expansion. Mr. Cook pointed out the expansion on the overhead map. Councilman Hosmer expressed his belief that the aforementioned addition is a separate parcel and should not require sidewalk construction for the entire company. Ms. Smith responded the company and the addition would be considered one premise and therefore the sidewalks would be required for the entire premise.

Councilwoman Fulnecky asked Mr. Cook if this sidewalk issue is delaying his plans to expand and add jobs. Mr. Cook responded affirmatively.

Councilman Burnett asked Mr. Cook what the estimated cost of the required sidewalk construction would be. Mr. Cook responded approximately \$40,000.

Jessica Hickok , Executive Director with the Springfield Board of Directors, spoke in support of the proposed. She noted her organization supports the proposed and believes it would address an unintended consequence that has placed a burden on businesses in the community. She added the need for sidewalks in the City is important, but should be balanced to not hamper expansion of businesses.

Sally Hargis spoke in support of the proposed. She noted she is speaking on behalf of the business community. Ms. Hargis noted her business, Ozarks Coca Cola Company, may need to expand soon and would hope that this issue is resolved by then. She expressed her belief that the burden being placed on Loren Cook Company is uncalled for and should not happen to anyone else.

Brian Kubik, architect for the Loren Cook Company, spoke in support of the proposed. He noted a meeting was held with City staff and the applicant at which time they were told the sidewalk construction would be limited to just the expansion. He added the permit process is being delayed because of this sidewalk issue. Mr. Kubik noted the proposed building expansion could be built without the sidewalk requirement, but the zoning had to be changed on property for an adjacent parking lot which caused this issue to arise.

Councilman Hosmer asked why sidewalks could not be constructed only in front of the new expansion. Mr. Kubik responded Loren Cook Company agreed to pay a fee in lieu of sidewalks for the area in front of the new expansion. Councilman Hosmer asked why that did not occur. Mr. Kubik responded the Planning and Zoning Commission denied the request.

Councilman Hosmer expressed his belief that the developer should not have to go through this type of process for a sidewalk that does not connect to anything. Ms. Smith noted that prior to the 2014 amendment the sidewalks would not have been required around the entire premise of Loren Cook Company.

With no further appearances, the public hearing was closed.

Levying a Tax on Real and Personal Property

Sponsor: Stephens. Council Bill 2015-226. A special ordinance amending Special Ordinance No. 26586 and Special Ordinance No. 26587, passed by the City Council on June 22, 2015, to reflect the final determination of the Greene County Assessor of the assessed valuation by levying a tax on real and personal property for current expenses and the debt retirement of the City of Springfield, Missouri, and its boards and agencies for the Fiscal Year 2015-2016, and declaring an emergency.

Mary Mannix-Decker, Director of Finance, gave a brief overview of the proposed. She noted the proposed would set the property tax levy for 2015. She added when the budget was passed a preliminary levy was set based on the information staff had at the time. Ms. Mannix-Decker noted the final assessed value information has now been received from Greene County. She added the City's assessed value for 2015 is \$2,843,000,000. Ms. Mannix-Decker noted the

assessed value increased approximately 5 percent. She added this is the highest increase in the last 5 to 7 years. Ms. Mannix-Decker noted the levy is .06094 and is expected to generate approximately \$17 million in property tax revenue for the City. She added the aforementioned revenue goes to benefit the Parks Department, Health Department, Art Museum, and a portion of it would be used for debt retirement. Ms. Mannix-Decker noted the proposed is an emergency bill because the levy has to be set by September 1, 2015.

Councilman Hosmer asked if developers who receive tax abatements are reassessed during the abatement period. Ms. Mannix-Decker responded in the negative, adding they are reassessed the year they come off of the abatement. Ms. Smith expressed her belief that was decided by the Greene County Assessor. She noted she would get clarification on that and present it to Council.

An opportunity was given for citizens to express their views. With no appearances, the public hearing was closed.

Council Bill 2015-226. Special Ordinance 26614 was approved by the following vote: Ayes: Fulnecky, Ferguson, Schilling, Burnett, Fishel, McClure, Fisk, Hosmer, and Stephens. Nays: None. Absent: None. Abstain: None.

The following bills appeared on the agenda under First Reading Bills:

Indecent Exposure

Sponsor: Burnett. Council Bill 2015-227. A general ordinance amending the Springfield City Code, Chapter 78 - Offenses and Miscellaneous Provisions, Article V - Offenses Against Morals by repealing Section 78-222 - Indecent exposure in its entirety and enacting in lieu thereof a new Section 78-222 - Indecent exposure.

Dan Wichmer, City Attorney, gave a brief overview of the proposed. He noted Councilman Burnett has requested a change in the current indecent exposure law. He added the current City Code section is as follows:

78-222. – Indecent Exposure

- a) For purposes of this section, the term “nudity” means the showing of the human male or female genitals, or pubic area, or the middle third of the buttocks, measured vertically, with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of covered male genitals in a discernible turgid state.
- b) No person shall appear in a place open to public view in a state of nudity.

Mr. Wichmer noted the Missouri State Law reference is RSMo 566.130. He added in the proposed the coverage is expanded and the City Code section would read as follows:

78-222. – Indecent Exposure

- a) No person shall engage in or commit any act of indecent exposure or conduct in place open to public view.
- b) “indecent exposure or conduct” shall include:
 - 1) The exposure of one’s genitals, buttocks, vulva, pubic hair, pubic area, or the female breast below a point immediately above the

top of the areola, for the purpose of sexual arousal or gratification or which is likely to cause affront or alarm; provided, however, that any exposure of the female breast necessarily incident to breast-feeding an infant shall not be deemed to be a violation of this chapter.

Councilwoman Ferguson asked for clarification regarding the area of the buttocks that would need to be covered in the proposed. Mr. Wichmer responded the entire buttocks would need to be covered.

Councilman Hosmer asked if the proposed would eliminate future events, such as the recent rally, on the Park Central Square. Mr. Wichmer responded he does not believe it will. He noted the Park Central Square is considered a “gathering place” and he does not believe that citizens would not be able to practice their first amendment rights there.

Councilman Hosmer asked if there had been issues in other locations around the City. Mr. Wichmer responded in the negative. He added indecent exposure violations are often prosecuted through Municipal Court, but there is usually a clear case of what the indecent exposure violation was. Mr. Wichmer expressed his belief that the events being held on Park Central Square are protected under freedom of speech.

Councilman Burnett asked if the proposed would keep events, such as the recent rally on Park Central Square, from happening at other locations throughout the City. Mr. Wichmer responded that would be a “case-by-case” determination and would depend on the conduct and the location. He added, historically, public sidewalks have been considered a traditional public forum.

Councilman Burnett asked if illegal drug activity could occur at protests. Mr. Wichmer responded illegal drugs are a different issue and are not considered protected speech.

Councilwoman Fulnecky expressed her belief that local lawmakers need to make the best decision for the community, based on what the community wants.

Mayor Pro Tem McClure asked what case law has been articulated by the Supreme Court. Mr. Wichmer responded regarding the recent rally on Park Central Square, he does not believe that conduct could be regulated unless the person violated the current nudity ordinance and was completely topless. He added he believes that if that rally had been regulated, the City could have faced a first amendment lawsuit. Mr. Wichmer noted when dealing with freedom of speech issues, it is a different area of regulation.

An opportunity was given for citizens to express their views.

The following citizens spoke in support of the proposed: John Fedrick, Jennifer Wilken, Robert Pawlak, Swayne Loftis, Rush Loftis, Calvin Morrow, Mary Byrne, Dan McClintock, Robert Burnett, and Danny Henderson. They each expressed their belief that the proposed would help eliminate indecent exposure rallies in the City. They also expressed their belief that seeing protests such as the one recently held on the Park Central Square, could harm children and negatively impact

families. They also expressed concerned about perceived safety concerns.

The following citizens spoke in opposition of the proposed: Jessica Lawson, Rebecca Sanford, Alyssa Berrer, Katie Webb, Bonnie Tindle, Christine Anderson, and Karinda Thompson. They each expressed their concern that approval of the proposed would violate their constitutional rights. They also expressed concern that the language in the proposed is sexist and the word “female” should be removed.

With no further appearances, the discussion was closed.

PETITIONS, REMONSTRANCES, AND COMMUNICATIONS

NEW BUSINESS

UNFINISHED BUSINESS

MISCELLANEOUS

The following bills appeared on the agenda under Consent Agenda First Reading Bills:

Nuisance

Sponsor: Hosmer. Council Bill 2015-228. A general ordinance amending various sections in Chapters 6, 26, 74, and 96 of the Springfield City Code to correct cross-references altered by recent amendments to Chapter 74, Nuisance and Housing Code; and amending Chapter 106, Traffic and Vehicles; Article I, General; Sec. 106-35, Wrecked, discarded or inoperable vehicles, to delete a cross-reference to a non-existent definition in the Land Development Code.

Signalized Intersection Improvements at State Highway 744

Sponsor: Burnett. Council Bill 2015-229. A special ordinance authorizing the City Manager, or his designee, to enter into a Cost Share Agreement with SRC Holdings Corporation (SRC) for the purpose of sharing in the costs of signalized intersection improvements at State Highway 744 (Kearney Street) and Farm Road 199 (Mulroy Road); and amending the budget of the Department of Public Works for Fiscal Year 2015-2016 in the amount of \$152,146 to appropriate a reimbursement payment from SRC for its portion of the project costs.

Nuisance Trees

Sponsor: Fulnecky. Council Bill 2015-230. A general ordinance amending the Springfield City Code, Chapter 114, Vegetation, Article II, Trees, Section 114-31, Trees on private property creating hazard to public ways, by correcting a cross-reference to Chapter 74 in Subsection (e), Abatement by City, altered by recent amendments to Springfield City Code Chapter 74, and by adding Subsection (h), Search and seizure warrants, to allow the City to procure a search and/or seizure warrant to inspect and abate nuisance trees.

BNSF Crossing Project at Jefferson Avenue South of Phelps Street

Sponsor: Burnett. Council Bill 2015-231. A special ordinance authorizing the City Manager, or his designee, to enter into a Supplemental Agreement for Highway/Rail Crossing Improvements with the Missouri Highways and Transportation Commission (MHTC) and BNSF Railway Company (BNSF) for the purpose of coordinating participation by the City in the cost of the BNSF Crossing project at Jefferson Avenue south of Phelps Street, U.S. DOT Project No. 664 180J.

Final Plat of Villas at Hickory Hills Phase 3 Condominium

Sponsor: McClure. Council Bill 2015-232. A special ordinance approving the Final Plat of Villas at Hickory Hills Phase 3 Condominium, generally located at 3810 East Cherry Street, as an addition to the City of Springfield, Greene County, Missouri, subject to conditions. (Planning and Zoning Commission and staff recommend approval of the final plat.)

The following bills appeared on the agenda under Consent Agenda One Reading Bills:

Construction of General Aviation/Foreign Trade Zone United States Customs Facility

Sponsor: McClure. Council Bill 2015-233. A special ordinance authorizing the City Manager, or his designee, to execute a Funding Agreement between the City of Springfield (City) and the Missouri Department of Transportation (MoDOT), providing for a grant of funds under Section 226.225, RSMo, to the City, by and through the Springfield-Branson National Airport Board (Airport Board) in the amount of \$496,220, for the construction of a General Aviation/ Foreign Trade Zone United States Customs Facility at Springfield-Branson National Airport, and amending the budget of the Airport Board in the amount of \$1,096,220; and declaring an emergency.

Council Bill 2015-233. General Ordinance 26615 was approved by the following vote: Ayes: Fulnecky, Ferguson, Schilling, Burnett, Fishel, McClure, Fisk, Hosmer, and Stephens. Nays: None. Absent: None. Abstain: None.

Council bill 2015-234 was read, discussed, and voted on under Resolutions.

Sanitary Sewer District No. 176 of Section No. 16

Sponsor: Fisk. Council Bill 2015-235. A special ordinance to levy and assess a special tax against the lots, blocks, and parcels of ground hereinafter described to pay for the cost of the construction of sanitary sewers in the City in Sanitary Sewer District No. 176 of Section No. 16, in the general vicinity of Maple Street and Eldon Avenue, providing for inclusion of said district in the City Sewer Financial Assistance Program, and authorizing the City Clerk to issue special tax bills and deliver the same to the Director of Finance to be registered in her office in accordance with this ordinance.

Council Bill 2015-235. Special Ordinance 26616 was approved by the following vote: Ayes: Fulnecky, Ferguson, Schilling, Burnett, Fishel, McClure, Fisk, Hosmer, and Stephens. Nays: None. Absent: None. Abstain: None.

Cooperative Parking Facilities

Sponsor: Hosmer. Council Bill 2015-236. A resolution initiating an amendment to the Land Development Code, Article I, Zoning Ordinance, Section 5-1504, Cooperative Parking Facilities, to consider modifications to allow more shared parking. (Staff recommends approval.)

Council Bill 2015-236. Resolution 10233 was approved by the following vote: Ayes: Fulnecky, Ferguson, Schilling, Burnett, Fishel, McClure, Fisk, Hosmer, and Stephens. Nays: None. Absent: None. Abstain: None.

Waiver of Rezoning Fee

Sponsor: Fishel. Council Bill 2015-237. A resolution granting the waiver of half of the fees for rezoning the property located at 4265 South Nature Center Way.

Council Bill 2015-237. Resolution 10234 was approved by the following vote:

Ayes: Fulnecky, Ferguson, Schilling, Burnett, Fishel, McClure, Fisk, Hosmer, and Stephens. Nays: None. Absent: None. Abstain: None.

**Adopting 2015/2020
Greene County Hazard
Mitigation Plan**

Sponsor: Ferguson. Council Bill 2015-238. A resolution adopting the 2015-2020 Greene County Hazard Mitigation Plan as required by the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act).

Council Bill 2015-238. Resolution 10235 was approved by the following vote: Ayes: Fulnecky, Ferguson, Schilling, Burnett, Fishel, McClure, Fisk, Hosmer, and Stephens. Nays: None. Absent: None. Abstain: None.

The following bills appeared on the agenda under Second Reading Bills:

**Co-Host Law
Enforcement Training
Agreement**

Sponsor: Fisk. Council Bill 2015-202. A special ordinance authorizing the City Manager, or his designee, to enter into an Intergovernmental Agreement with the Greene County Sheriff to co-host law enforcement training.

Council Bill 2015-202. Special Ordinance 26617 was approved by the following vote: Ayes: Fulnecky, Ferguson, Schilling, Burnett, Fishel, McClure, Fisk, Hosmer, and Stephens. Nays: None. Absent: None. Abstain: None.

**Disclosure of Certain
Transactions by
Certain City Employees**

Sponsor: Hosmer. Council Bill 2015-203. A general ordinance amending the Springfield City Code, Chapter 2, Administration, Article I, by repealing Section 2-8, pertaining to disclosure of certain transactions by certain City employees, candidates for elected City office, and public officials, and enacting in lieu thereof a new Section 2-8.

Council Bill 2015-203. General Ordinance 6218 was approved by the following vote: Ayes: Fulnecky, Ferguson, Schilling, Burnett, Fishel, McClure, Fisk, Hosmer, and Stephens. Nays: None. Absent: None. Abstain: None.

**Exchange Portions of
Property near Wilson's
Creek and the SWTP**

Sponsor: Fisk. Council Bill 2015-204. A special ordinance authorizing the City Manager, or his designee, to enter into a real estate contract to exchange certain portions of city property for private property near Wilson's Creek and the City's Southwest Wastewater Treatment Plant (hereinafter "SWTP"); and authorizing the Mayor to execute necessary documents to convey and receive title to the exchanged tracts of real estate.

Council Bill 2015-204. Special Ordinance 26618 was approved by the following vote: Ayes: Fulnecky, Ferguson, Schilling, Burnett, Fishel, McClure, Fisk, Hosmer, and Stephens. Nays: None. Absent: None. Abstain: None.

**Cost Share Agreement
with Greene County
Regarding Intersection
Improvements at Route
744 and Farm Road 199**

Sponsor: Burnett. Council Bill 2015-205. A special ordinance authorizing the City Manager, or his designee, to enter into an Agreement to Cost Share Mulroy Road and Kearney Street Improvements (Exhibit 1) with Greene County (County) to coordinate participation in the cost of intersection improvements at Route 744 (Kearney Street) and Farm Road 199 (Mulroy Road); and amending the budget of the Department of Public Works for Fiscal Year 2015-2016, in the amount of \$256,200, to appropriate a contribution from County for their portion of the project costs.

Council Bill 2015-205. Special Ordinance 26619 was approved by the following

vote: Ayes: Fulnecky, Ferguson, Schilling, Burnett, Fishel, McClure, Fisk, Hosmer, and Stephens. Nays: None. Absent: None. Abstain: None.

Safety Improvements at Mulroy Road Grade Crossing

Sponsor: Burnett. Council Bill 2015-206. A special ordinance authorizing the City Manager, or his designee, to enter into a Supplemental Agreement for Highway/Rail Crossing Improvements with the Missouri Highways and Transportation Commission (MHTC) and BNSF Railway Company (BNSF) for the purpose of coordinating participation in the cost of safety improvements at United States Department of Transportation Crossing No. 673 263W (Mulroy Road Grade Crossing), designated as MHTC Job No. RRP-000S(455).

Council Bill 2015-206. Special Ordinance 26620 was approved by the following vote: Ayes: Fulnecky, Ferguson, Schilling, Burnett, Fishel, McClure, Fisk, Hosmer, and Stephens. Nays: None. Absent: None. Abstain: None.

Municipal/Road Relinquishment Agreement

Sponsor: Burnett. Council Bill 2015-207. A special ordinance authorizing the City Manager, or his designee, to enter into a Municipal/Road Relinquishment Agreement with the Missouri Highways and Transportation Commission (MHTC) to outline responsibilities for the construction and maintenance of intersection improvements at Route 744 (Kearney Street) and Packer Road, designated as MHTC Project No. J8S3019.

Council Bill 2015-207. Special Ordinance 26621 was approved by the following vote: Ayes: Fulnecky, Ferguson, Schilling, Burnett, Fishel, McClure, Fisk, Hosmer, and Stephens. Nays: None. Absent: None. Abstain: None.

Cost Share First Supplemental Agreement with MHTC for Route 744 and Packer Road Improvements

Sponsor: Burnett. Council Bill 2015-208. A special ordinance authorizing the City Manager, or his designee, to enter into a Cost Share First Supplemental Agreement with the Missouri Highways and Transportation Commission (MHTC) to coordinate participation in the cost of intersection improvements at Route 744 (Kearney Street) and Packer Road, designated as MHTC Project No. J8S3019.

Council Bill 2015-208. Special Ordinance 26622 was approved by the following vote: Ayes: Fulnecky, Ferguson, Schilling, Burnett, Fishel, McClure, Fisk, Hosmer, and Stephens. Nays: None. Absent: None. Abstain: None.

Packer Road Improvements

Sponsor: Burnett. Council Bill 2015-209. A special ordinance authorizing the City Manager, or his designee, to enter into an agreement to complete Packer Road improvements with New Prime, Inc., (Prime) to coordinate participation in the cost of intersection improvements at Route 744 (Kearney Street) and Packer Road, designated as Missouri Highways and Transportation Commission Project (MHTC) No. J8S3019; and amending the budget of the Department of Public Works for Fiscal Year 2015-2016, in the amount of \$588,540 to appropriate a contribution from Prime for its portion of the project costs.

Council Bill 2015-209. Special Ordinance 26623 was approved by the following vote: Ayes: Fulnecky, Ferguson, Schilling, Burnett, Fishel, McClure, Fisk, Hosmer, and Stephens. Nays: None. Absent: None. Abstain: None.

Council confirmed the following appointment to the Board of Adjustment: Bryan Fisher with term to expire January 1, 2016.

Closed Session

Councilman Hosmer moved that City Council hold a closed meeting to discuss legal actions, causes of action, litigation, privileged and confidential communications, pursuant to Sections 610.021 (1), and this meeting, record, and vote be closed and the City Council shall stand adjourned at the end of the closed session. Mayor Pro Tem McClure seconded the motion and it was approved by the following vote: Ayes: Fulnecky, Ferguson, Schilling, Burnett, Fishel, McClure, Fisk, Hosmer, and Stephens. Nays: None. Absent: None. Abstain: None.

Prepared by Lisa M. Harley-Lurten

Anita J. Cotter, CMC/MRCC
City Clerk